

Small Business Administration

§ 115.14

disaster area identified in the FEMA Web site at <http://www.fema.gov>;

(ii) At the request of the Head of the Agency involved in reconstruction efforts in response to a major disaster, SBA may guarantee bonds on Federal Contracts or Orders in excess of \$5,000,000, but not more than \$10,000,000;

(iii) The restrictions set forth in paragraph (e)(3) of this section do not apply to the guarantees issued under this paragraph (e)(5); and

(iv) A guarantee may be issued under this paragraph (e)(5) for any Contract or Order for which an offer is submitted or an award is made within 12 months from the date an area is designated a major disaster area in the FEDERAL REGISTER. SBA may, at its discretion, extend this time period for any particular disaster, and will publish a notice of the extension in the FEDERAL REGISTER.

(f) *Transfers or sales by Surety.* Sureties must not sell or otherwise transfer their files or accounts, whether before or after a default by the Principal has occurred, without the prior written approval of SBA. A violation of this provision is grounds for termination from participation in the program. This provision does not apply to the sale of an entire business division, subsidiary or operation of the Surety.

[61 FR 3271, Jan. 31, 1996, as amended at 66 FR 30804, June 8, 2001; 74 FR 36109, July 22, 2009; 76 FR 2572, Jan. 14, 2011]

§ 115.13 Eligibility of Principal.

(a) *General eligibility.* In order to be eligible for a bond guaranteed by SBA, the Principal must comply with the following requirements:

(1) *Size.* Together with its Affiliates, it must qualify as a small business under part 121 of this title.

(2) *Character.* It must possess good character and reputation. A Principal meets this standard if each owner of 20% or more of its equity, and each of its officers, directors, or general partners, possesses good character and reputation. A Person's good character and reputation is presumed absent when:

(i) The Person is under indictment for, or has been convicted of a felony, or a final civil judgment has been entered stating that such Person has committed a breach of trust or has vio-

lated a law or regulation protecting the integrity of business transactions or business relationships; or

(ii) A regulatory authority has revoked, canceled, or suspended a license of the Person which is necessary to perform the Contract; or

(iii) The Person has obtained a bond guarantee by fraud or material misrepresentation (as described in § 115.19(b)), or has failed to keep the Surety informed of unbonded contracts or of a contract bonded by another Surety, as required by a bonding line commitment under § 115.33.

(3) *Need for bond.* It must certify that a bond is expressly required by the bid solicitation or the original Contract in order to bid on the Contract or to serve as a prime contractor or subcontractor.

(4) *Availability of bond.* It must certify that a bond is not obtainable on reasonable terms and conditions without SBA's guarantee.

(5) *Partial subcontract.* It must certify the percentage of work under the Contract to be subcontracted. SBA will not guarantee bonds for Principals who are primarily brokers or who have effectively transferred control over the project to one or more subcontractors.

(6) *Debarment.* It must certify that the Principal is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from transactions with any Federal department or agency, under governmentwide debarment and suspension rules.

(b) *Conflict of interest.* A Principal is not eligible for an SBA-guaranteed bond issued by a particular Surety if that Surety, or an Affiliate of that Surety, or a close relative or member of the household of that Surety or Affiliate owns, directly or indirectly, 10% or more of the Principal. This prohibition also applies to ownership interests in any of the Principal's Affiliates.

§ 115.14 Loss of Principal's eligibility for future assistance.

(a) *Ineligibility.* A Principal and its Affiliates lose eligibility for further SBA bond guarantees if any of the following occurs under an SBA-guaranteed bond issued on behalf of the Principal: